

RULE AGENDA/BOARD ACTION CHECKLIST

(Prepared pursuant to
s. 227.135(1), Stats.)

Air Management

Bureau

Natural Resources
Board Order Number

☒ Original

Date

☐ Amended

Date

(If Applicable)

1. Subject of the administrative code action/nature of board action.

The Natural Resources Board at their December 2000 meeting directed staff to prepare administrative rules to control mercury air emissions under the authority of s. 285.11(9), Wis. Stats. This action was initiated in response to a petition received in May 2000 that was signed by several legislators and representatives of environmental organizations, conservation groups, sporting clubs and lake associations. Staff were directed by the board to present proposed rules, with a request for public hearing authorization, at the March 2001 Natural Resource Board meeting.

2. Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue.

The electric utilities, independent power producers, paper industry and industrial or commercial sources of mercury emissions, in addition to the petitioners, are the groups interested in the issue. In developing the rules, staff will address the following:

- The percentage reductions and a phased schedule for achieving the reductions.
- A methodology for determining baseline emissions levels.
- An emissions trading and banking system.
- A provision to allow for alternative compliance options, such as projects that achieve mercury emission reductions from sources not covered by the rules.
- A provision that would allow the Department to grant variances, such as deadline extensions or alternative emission limits, if it determines that compliance with the reduction requirements is not technologically feasible, would jeopardize electric reliability or would cause unreasonable hardship provided that the variance would not result in undue harm to human health or the environment.
- A provision that the Department, by the end of 2007, submit a report to the Board that evaluates the mercury reduction requirements in light of electric reliability, scientific and technology developments, and federal regulatory activity. Based on this review Department staff would recommend adjustments to the reduction requirements, if appropriate. The Department should also evaluate impacts of emissions trading on local water quality and, if needed corrective actions.

3. Does rule/board action represent a change from past policy?
Explain the facts that necessitate the proposed change.

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Yes

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No

This is the first rule making the air program has undertaken to establish air emission limitations for a hazardous air pollutant because of its bioaccumulative effects in the environment. It is known that mercury air emissions deposit in surface waters and bioaccumulate in game fish. The contamination level of mercury found in game fish tissue has resulted in the need for fish consumption advisories to be issued for many water bodies in the state. The rule is intended to limit mercury air emissions from large sources.

4. Does rule/board action represent an opportunity for pollution prevention and/or waste minimization?

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Yes

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Unsure. Will consult with the Bureau's pollution prevention expert(s) and/or the Bureau of Cooperative Environmental Assistance.

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No. Adoption of federal requirements that do not include or allow for pollution prevention.

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No. Other reason (explain):

5. Who will participate in board action/rule development, and what is the anticipated time commitment?

	Name of Person Responsible	Time Before Hearing	Time After Hearing	Acknowledgment
a. Drafting bureau	Jon Heinrich	320	640	
b. Legal Services	Tom Steidl	80	80	
c. Env. Analysis/Liaison (SS)	Jim Pardee	4	4	
d. Management & Budget	Lance Potter	4	4	
e. Other Department staff	Robert Park	40	40	
f. Recommended Public Participation:				

A public hearing will be held in each DNR Region. Stakeholders will be provided with a copy of a draft rule when the Green Sheet package has received approval.

6. Which federal statute, regulation, state statute or judicial decision is the authority for the proposed rule/board action?

s. 285.11(9), Wis. Stats.

- a. ☐ The proposed rule/board action conforms to and does not exceed requirements of a federal or state statute or controlling judicial decision.
- b. ☐ The proposed rule/board action exceeds the minimum requirements of a federal or state statute or controlling judicial decision.
- c. ☒ The proposed rule/board action is based on general authorization that requires rule making, but contains no specific standards.
- d. ☐ The proposed rule/board action is based on a general authorization, with no specific direction that rules must be developed.

Bureau of Legal Services

7. Proposed schedule (Fill in blanks applicable)

- a. Month of green sheet for requesting authorization for hearing or briefing on proposed board action: _____
- b. Hearing(s) - Number: Five
Date(s): May – June 2001
Location(s): One hearing in each Region. Possible teleconference for certain hearing locations.
- c. Rule adoption or action by Board: September 2001
- d. Anticipated timing of Legislative review - Start: October 2001
End: November 2001
- e. Anticipated effective date: February 2002
- Initials of Bureau Director _____

FOR DIVISION ADMINISTRATOR'S USE

- 8a. Recommendation to Secretary ☐ Approved ☐ Approved as amended ☐ Disapproved
- b. Other Board actions ☐ Approved ☐ Approved as amended ☐ Disapproved

Division Administrator's Signature

Date Signed

9. Secretary's approval required before drafting begins.

Drafting

☐ may

☐ may not

proceed on rule or action.

Secretary's Approval

Date Approved

Completed original to be filed with the Bureau of Legal Services.